

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

COMES NOW the Plaintiff, Homes by Taber, LLC, ("Plaintiff" or "HBT"), and for its causes of action against the Defendant, Timber Ridge Custom Homes LLC ("Defendant" or "Timber Ridge"), alleges and states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is an Oklahoma limited liability company headquartered and doing business in Oklahoma County. Plaintiff is a competitor of Defendant.
2. Defendant is an Oklahoma limited liability company headquartered and doing business in Oklahoma County. Defendant is a competitor of Plaintiff.
3. This incidents giving rise to this matter took place in Oklahoma County, and the amount in controversy exceeds \$75,000.00, plus interest, costs and attorney fees. Venue is properly laid in Oklahoma County, Oklahoma, pursuant to 12 Okla. Stat. § 134.

BACKGROUND FACTS

4. Since June of 2000, Plaintiff has built some of the most beautiful custom homes across the State of Oklahoma.

5. Plaintiff's attention to detail has resulted in Homes by Taber being recognized numerous publications as being the "Best Builder" in 2017 – those include: 405Magazine; Oklahoma Magazine; The Edmond Sun; So6ix Magazine; Oklahoma Reader's Choice Award (Best South Builder); and the Edmond Chamber (Best Philanthropic Business. Photographs and floor plans of Plaintiff's homes are located online at www.HomesbyTaber.com and on Facebook under Homes by Taber.

6. Defendant represents to the public that it has been in the business of building custom homes since 1991. Defendant represents to the public that photographs of the homes it has built are located online at www.TimberRidgeOK.com and on Facebook under Timber Ridge Custom Homes. The individual representing these homes as being built by Defendant is Matthew Clark.

7. On or about August 28, 2018, Defendant posted photographs on its website and Facebook page that belonged to Plaintiff and that depicted one of the houses Plaintiff had built. Defendant represented to the public that it had built the pictured house and that the house was located in Woodward, Oklahoma. The caption on the advertisement by Defendant provides, "Another extraordinary job well done! Lots of equity this build. Thank you [unreadable name] family for allowing us to build your dream home." Plaintiff has included a copy of Defendant's website and Facebook page that both represent to the public that Plaintiff's house was built by Defendant as Exhibit "1"; and the actual photo stolen from Plaintiff's website as Exhibit "2".

8. Many of the other houses illustrated on Defendant's website and Facebook page are also believed to be fake and/or stolen, in that Defendant did not build many of the houses depicted but rather lifted the pictures of the houses from other builder websites and is now passing them off to the Oklahoma consumers as its own - which is fraud.

9. The Defendant, Timber Ridge Custom Homes LLC, is a predator of the worst kind preying upon the Oklahoma consumer through intentionally false and misleading advertising. Timber Ridge Custom Homes LLC is knowingly deceiving the Oklahoma consumer by lying to them about the actual houses it claims to have built. Timber Ridge Custom Homes LLC extends its deceitfulness through direct, false interactions with the Oklahoma consumers on its Facebook page. The unconscionable conduct of Timber Ridge Custom Homes LLC is not only damaging the business of Plaintiff, but is potentially harmful to the Oklahoma consumer by building an inferior house.

10. The deceptive acts practiced by Timber Ridge Custom Homes LLC is criminal in nature, and should not be tolerated by this Court.

CLAIMS FOR RELIEF

Count 1 - Oklahoma Deceptive Trade Practices Act

11. Plaintiff incorporates the foregoing paragraphs by reference.

12. Defendant employed deceptive trade practices in violation of the Oklahoma Deceptive Trade Practices Act, 78 O.S. §53 *et seq.*, when it knowingly and falsely represented to the public that the home built and sold by Plaintiff was its own.

13. Plaintiff is entitled to an award of damages that result from Defendant's wrongful conduct, to include but not limited to, actual and/or consequential damages, together with pre and post judgment interest.

14. The violation of the Oklahoma Deceptive Trade Practices Act by Defendant was unconscionable and willful, entitling Plaintiff to its attorney's fees, costs, damages and an appropriate statutory penalty for each violation.

15. Plaintiff is further entitled to injunctive relief restraining Defendant from further infringement of Plaintiff's property.

16. Defendant's acts constitute unfair competition in the form of copyright infringement of Plaintiff's common-law rights to exclusive use of its photographs and thus protectable under common law.

17. As a proximate result of Defendant's actions, Plaintiff has suffered and will continue to suffer damage to its business, reputation, and goodwill, in that Defendant has and is knowingly and falsely representing to the public Plaintiff's work and houses as its own. In addition, Plaintiff has and will incur loss of sales and profits, which would not have occurred in the absence of Defendant's conduct.

18. Plaintiff has no adequate remedy at law, since the damages caused by Defendant's conduct are difficult, if not impossible, to ascertain. Defendant's acts, if allowed to continue, will cause Plaintiff irreparable injury. Further, to obtain redress at law, Plaintiff will be forced to institute multiple actions.

19. Defendant's acts were made with willful, wanton and deliberate intent to deprive Plaintiff of its property and rights therein; thus, Plaintiff is entitled to an award of punitive damages against Defendant.

Count 2 – Lanham Trade-Mark Act

20. Plaintiff incorporates the foregoing paragraphs by reference.

21. Defendant falsely advertised the construction of its houses in violation of the Lanham Trade-Mark Act, § 43(a)(1)(A), 15 U.S.C.A. § 1125(a)(1)(A).

22. Defendant's acts constitute a literal falsity in violation of the Lanham Trade-Mark Act, as the house Defendant claimed to have built was, in fact, built by Plaintiff.

23. Defendant's use of Plaintiff's photographs depicting a house built by Plaintiff, as well as Defendant's false statement to a potential consumer that Defendant built Plaintiff's house, was a false or misleading statement of fact about the product being sold (Plaintiff's house). Defendant's false statement actually deceived or had the capacity to deceive a substantial segment of potential consumers. Defendant's false statement results in a material deception in that it was likely to influence a consumer's purchasing decision. The product being sold (Plaintiff's house) was in interstate commerce. Plaintiff has been or is likely to have been injured as a result of Defendant's false statement in issue.

24. Plaintiff is entitled to an award of damages that result from Defendant's wrongful conduct, to include but not limited to, actual and/or consequential damages, together with pre and post judgment interest.

25. The violation of the Lanham Trade-Mark Act by Defendant was unconscionable and willful, entitling Plaintiff to treble damages, its attorney's fees, costs, damages and an appropriate statutory penalty for each violation.

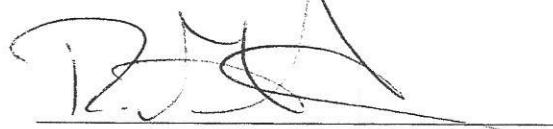
26. Plaintiff is further entitled to injunctive relief restraining Defendant from further infringement of Plaintiff's property.

27. As a proximate result of Defendant's actions, Plaintiff has suffered and will continue to suffer damage to its business, reputation, and goodwill, in that Defendant has and is knowingly and falsely representing to the public Plaintiff's work and houses as its own. In addition, Plaintiff has and will incur loss of sales and profits, which would not have occurred in the absence of Defendant's conduct.

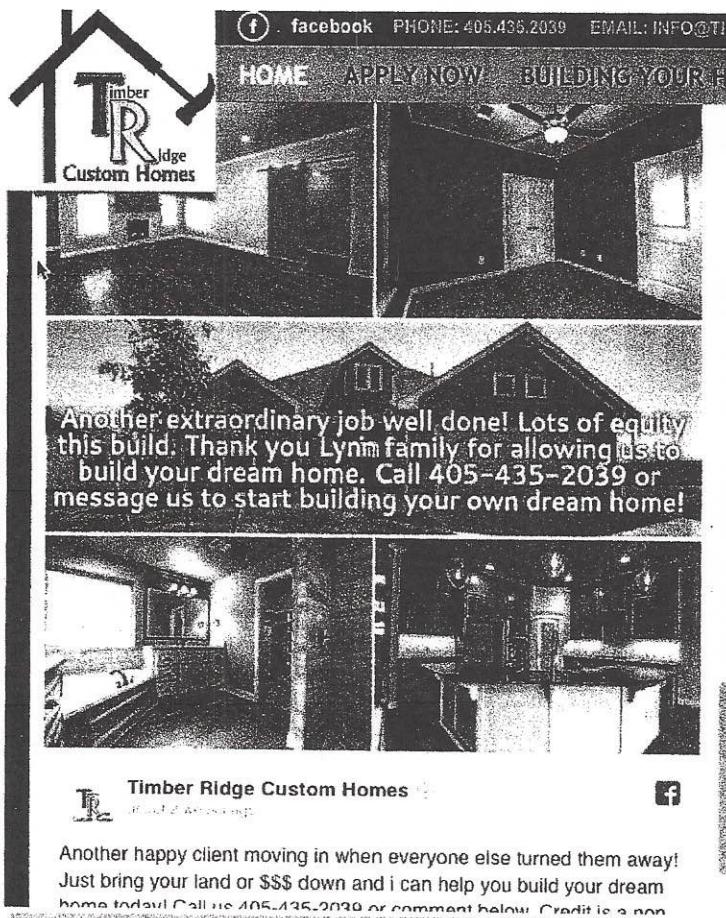
28. Defendant's acts were made with willful, wanton and deliberate intent to deprive Plaintiff of its property and rights therein; thus, Plaintiff is entitled to an award of punitive damages against Defendant.

Wherefore, Plaintiff requests judgment against Defendant under the Oklahoma Deceptive Trade Practices Act and Lanham Trade-Mark Act for: (1) an injunction restraining Defendant from further infringement of Plaintiff's property; (2) treble damages, to include but not limited to, actual and/or consequential damages, together with pre and post judgment interest as allowed by statute; (3) punitive damages; (4) recovery of Plaintiff's attorney's fees, filing fees, and costs of suit; and (5) any further relief which the court may deem just and proper.

Respectfully submitted,



R. Greg Andrews, OBA # 19037
ANDREWS LAW FIRM, PLLC
2516 Tee Drive
Norman, OK 73069
Telephone: (405) 360-7001
Facsimile: (405) 360-7002
Attorney for Plaintiff
Homes by Taber, LLC



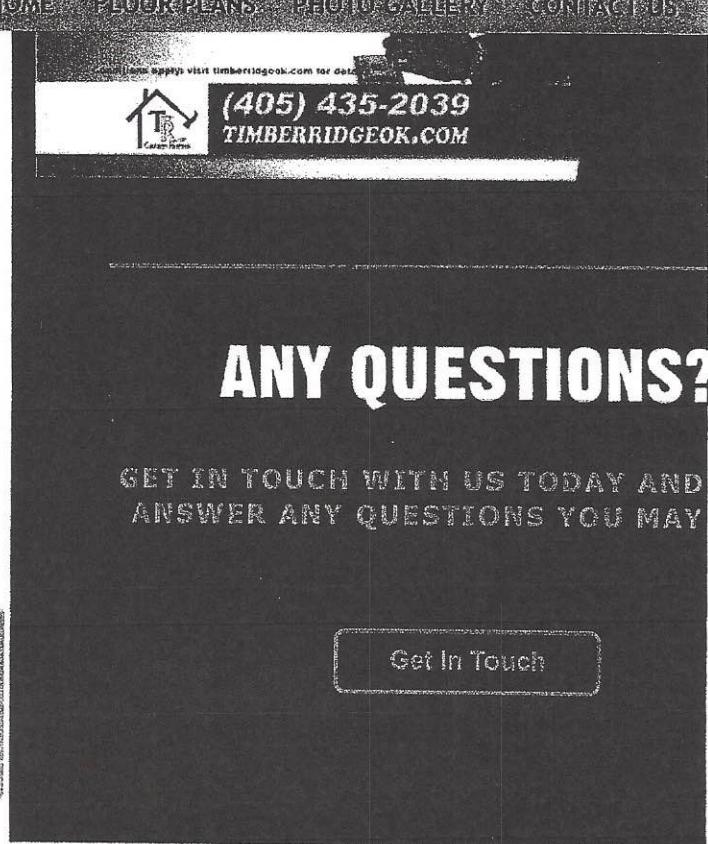
facebook PHONE: 405.435.2039 EMAIL: INFO@TIMBERRIDGEOK.COM 3209 S BROADWAY SUITE 227, EDMOND, OK 73013, U.S.A.

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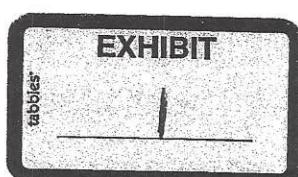
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ANY QUESTIONS?

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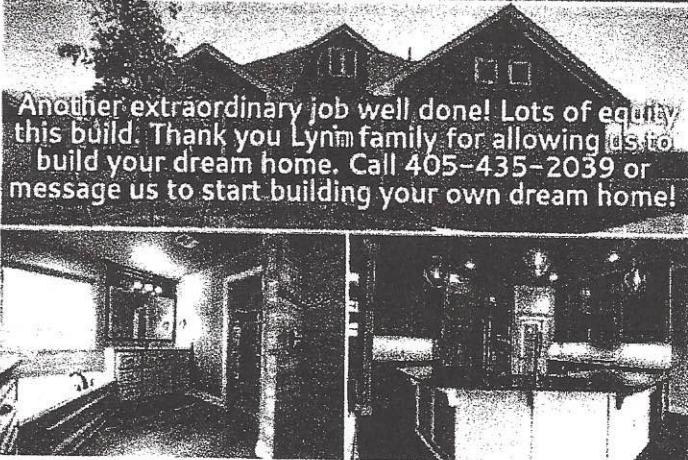
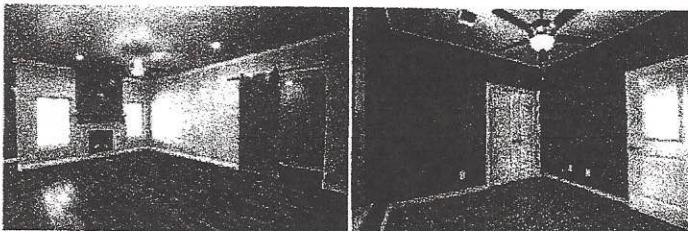




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Kayleigh Coleman Where is this home?

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Timber Ridge Custom Homes If your interested in viewing a property that has a open house i have one available for viewing this week. This home is the woodward

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Kayleigh Coleman Timber Ridge Custom Homes Oh okay thank you I'm looking in Piedmont area!

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Timber Ridge Custom Homes Thats so great that is where the open house is! Its off turner turnpike and county line in "The GRAND Addition!

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Kayleigh Coleman Timber Ridge Custom Homes when??

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